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The Chaco and Leticia

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# SOUTH AMERICAN CONFLICTS

## The Chaco and Leticia

by

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with the aid of the Research Staff of the Foreign Policy Association

1 1 1

### INTRODUCTION

WHEN President Ayala of Paraguay declared on May 10 that a state of war existed between his country and Bolivia, he merely gave legal status to the war which has prevailed in fact for almost a year and has already cost thousands of lives. His action, however, focussed attention once more on the sanguinary conflicts in South America. Not only does war exist between Bolivia and Paraguay but, as a result of the reopening of an old boundary dispute, hostilities have also broken out between Colombia and Peru.

As President Roosevelt recently declared on Pan-American Day (April 12), these "conflicts between four of our sister republics" constitute "a backward step." Only four years ago, when the Pan-American Conference on Conciliation and Arbitration finished its labors in Washington on January 5, 1929, it was generally believed that comprehensive machinery had been created to insure the peaceful settlement of international conflicts in the Western Hemisphere. The Conference had not only adopted a convention providing for the arbitration of disputes of a juridical character, but had also signed a treaty supplementing the Gondra Treaty of 1923 and requiring the submission of all other disputes to conciliation commissions.<sup>1</sup>

1. Cf. William T. Stone, "The Pan-American Arbitration Treaty," *Foreign Policy Association, Information Service*, Vol. V, No. 18, November 13, 1929. The texts of the arbitration and conciliation treaties are contained in *Proceedings of the International Conference of American States on Conciliation and Arbitration*, held at Washington, December 10, 1928 to January 5, 1929 (Washington, Government Printing Office, 1929), p. 634-89. The text of the Gondra Treaty may be found in *U. S. Treaty Series*, No. 752.

The Gondra Treaty had laid down the obligation to submit disputes to *ad hoc* commissions for investigation and report, and had created two standing committees, consisting of the three American diplomats longest accredited in Washington and in Montevideo, to assist parties to a dispute in arranging for such a commission. The 1929 treaty remedied several defects contained in the Gondra Treaty. It omitted the reservation—applicable between nations bound by no general arbitration treaties—which exempted from investigation questions affecting constitutional provisions and questions settled by other treaties. It gave the commissions of investigation additional power to negotiate directly with the disputants in order to obtain a peaceful settlement. Finally, it required the permanent diplomatic committees to exercise conciliatory functions during the often critical period preceding the establishment of a commission, either when one of the parties requests it or when one of the committees deems it necessary for the preservation of peace.

The Conference had also been instrumental in averting a war between Bolivia and Paraguay. On the eve of its first meeting—in December 1928—clashes between the troops of these two countries had taken place in the disputed area known as the Chaco Boreal. War had been imminent, but the Conference had persuaded the parties to allow the incidents to be investigated and settled by a special commission.<sup>2</sup> This commission accomplished its task successfully in the six months assigned to it. In the Final Act, adopted by the commission on September 12, 1929, Bolivia and Paraguay agreed to renew diplomatic relations and to restore the *status quo* prevailing in the Chaco before the clashes occurred.<sup>3</sup>

Yet when the dispute between Bolivia and Paraguay flared up again and when Colombia and Peru came into conflict, no established American peace machinery existed to deal with these disputes. In each case one or both parties had failed to ratify the Pan-American treaties of 1923 or 1929.<sup>4</sup> Under these circumstances two groups of American nations sought, on their own initiative, to mediate in the Chaco conflict. The United States presided over one group; Argentina and Chile were most active in the other. These countries were able to invoke no treaty in support of their action—not even the Anti-War Pact, to which Bolivia is not a party. Possessing

2. *Proceedings of the Conference*, cited, p. 161-70.

3. The commission found that certain measures taken by Paraguay had brought about the conflict. Cf. *Proceedings of the Commission of Inquiry and Conciliation—Bolivia and Paraguay* (Baltimore, Sun Book & Job Printing Office, 1929), p. 80-81. Renewal of diplomatic relations did not take place until May 1, 1930, and the captured forts were not restored until July 22, 1930.

4. A relatively small number of the 21 members of the Pan American Union have ratified the 1929 treaties. The conciliation treaty has gone into effect for only 7 states—Brazil, Cuba, Chile, San Salvador, the United States, Guatemala and Mexico. Colombia, Ecuador, Haiti and Panama have ratified this treaty, but have not yet deposited their ratifications. The arbitration treaty has become binding on but 10 countries—Brazil, Cuba, Chile, San Salvador, Guatemala, Mexico, Nicaragua, Panama, the Dominican Republic and Venezuela. Haiti has not yet deposited its ratification. The United States Senate on January 19, 1932, consented to ratification, but with such restrictive reservations that the State Department has taken no steps to ratify the treaty. Even the Gondra Treaty of 1923 still lacks the ratification of two states—Argentina and Bolivia. Nicaragua has ratified, but has not yet deposited its ratification as required.

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no jurisdiction over the disputants, they could only advance an almost endless series of proposals, all of which were rejected. Not only did they fail to re-establish peace and to determine the responsibility for the origin or continuation of the conflict, but they prevented the League of Nations, of which both Bolivia and Paraguay are members, from assuming jurisdiction over the dispute. Now that the American nations have exhausted their efforts to obtain peace and Paraguay has declared war, the way appears open for action by the League.

Will the League be more successful? In the conflict between Colombia and Peru, the League has played the principal rôle as

peacemaker, and the United States, acting on the basis of the Anti-War Pact, has supported the League's action. Although it has been able, by virtue of its juridical control over the parties to the dispute, to investigate the conflict and establish Peru's responsibility for its inception, it has not succeeded in enforcing its verdict. If the League is to terminate the Chaco war, it will require the cooperation of the American countries not only in inquiring into the origins of the conflict and in making recommendations for a peaceful solution, but also in applying if necessary some form of sanctions against the country refusing to accept an equitable settlement.

### THE CHACO CONFLICT

Since the summer of 1932, Bolivia and Paraguay have been engaged in an indecisive war over their conflicting claims to the Chaco Boreal, a vast tropical region lying between the Pilcomayo and Paraguay rivers. The value of this territory is dubious; it is for the most part an inhospitable region and apparently has but few resources, although some believe that it may contain oil. To Bolivia the possession of the Chaco is important chiefly because it affords access to the navigable Paraguay river and thence to the Atlantic Ocean. Bolivians consider control of this outlet indispensable for the development of eastern Bolivia, which lies beyond the *altiplano*—the Andean region where Bolivia's population is at present concentrated. To Paraguay—a country much smaller than Bolivia—the Chaco offers a natural field for future expansion.

Both countries base their claims to this region on colonial titles given by the Spanish Crown before 1810, when the Spanish colonies began their struggle for independence. Paraguay also maintains that a decision on the legal ownership of the Chaco must take into consideration the acts by which each government took possession of parts of the disputed territory prior to January 12, 1907, when the two countries agreed not to extend their possessions pending the execution of an undertaking to arbitrate their respective claims to the Chaco. Bolivia, however, no longer recognizes the validity of the 1907 agreement and denies that "possessory acts" can establish a valid title.<sup>5</sup> Its position is only natural, since the great distance—more than a thousand miles—separating the Chaco from the Andean part of Bolivia has pre-

vented this country from colonizing or exercising jurisdiction in the Chaco. Only in the last few decades has Bolivia actively asserted its claim by establishing forts and military outposts throughout the northern and western parts of the Chaco. Paraguay, however, has found the Chaco more easily accessible and has consequently been able to colonize and develop the eastern part of this region to some extent. Considerable foreign capital and enterprise, largely Argentine,<sup>6</sup> has been attracted to this area, where the cutting of quebracho wood and cattle-raising have become the chief industries.<sup>7</sup>

The whole question would seem to be eminently suited to settlement by arbitration, but such a settlement has been impossible because the two countries have failed to agree regarding the extent of the territory to be submitted to adjudication. Bolivia has always insisted on limiting this territory to the west and the north in such a manner as to obtain in advance undisputed ownership of most of the Chaco and, in particular, of that part giving access to the Upper Paraguay river. In addition, Bolivia has sought to include in the zone in litigation that area in the lower Chaco which President Hayes, acting as arbitrator in a boundary dispute between Argentina and Paraguay, awarded to the latter in 1878.<sup>8</sup> With equal persistence Paraguay has rejected these conditions. Bolivia, moreover, has declined to allow a third party or agency to decide this

6. According to a letter sent by a group of Argentine business men in Paraguay to their Foreign Minister, Argentine companies and individuals own 10.5 of the 22 million hectares of real property, 320 of the 420 kilometers of railways, half of the 1,000,000 head of livestock, and 80 of the 140 million Argentine pesos of invested capital. Cf. *La Prensa* (Buenos Aires), August 13, 1932.

7. For a more detailed analysis of the issues involved in the Chaco dispute, cf. Agnes S. Waddell, "Unsettled Boundary Disputes in Latin America," Foreign Policy Association, *Information Service*, Vol. V, No. 26, March 5, 1930.

8. Bolivia has always refused to be bound by the Hayes award, which did not take its claims to the territory into consideration. Cf. Finot, *Nuevos Aspectos de la Cuestión del Chaco*, cited, p. 205-54; also *Proceedings of the Commission of Inquiry and Conciliation—Bolivia and Paraguay*, cited, p. 957, 1130.

5. Bolivia holds the 1907 agreement to be no longer binding because (1) the parties have irreconcilable views concerning the extent of each other's possessions in 1907, (2) the object for which the agreement had been concluded—the definitive settlement of the Chaco question—was not achieved, and (3) the parties agreed to a new *status quo* in the Final Act of September 12, 1929, namely the "re-establishment of the state of things in the Chaco on the same footing as prior to December 5, 1923 . . ." Cf. Enrique Finot, *Nuevos Aspectos de la Cuestión del Chaco* (La Paz, Editorial "Renacimiento," 1931), p. 111.



difference over delimitation of the territory to be submitted to arbitration.<sup>9</sup>

#### ESTABLISHMENT OF A COMMISSION OF NEUTRALS

After the Commission of Inquiry appointed by the Pan-American Conference had effected a peaceful settlement of the 1928 incidents, a situation liable to provoke future conflict still existed in the Chaco, where a large number of hostile forts and outposts confronted each other. For this reason, the five neutral countries which had been represented on the commission—the United States, Cuba, Colombia, Mexico and Uruguay—joined on October 1, 1929 in urging Bolivia and Paraguay to open negotiations for the final settlement of the Chaco question and to accept their good offices for the conciliation of any points of disagreement. Two years elapsed before these negotiations began, because Bolivia insisted that direct negotiations in La Paz and Asunción should first be tried. Moreover, a Bolivian revolution in June 1930, followed by an interregnum lasting until March 1931, temporarily relegated the Chaco question to the background. Finally, in the fall of 1931, the Bolivian government reluctantly consented<sup>10</sup> to send delegates to Washington, but to discuss the conclusion of a non-aggression pact only, and not the settlement of the territorial question.

When negotiations opened on November 11, 1931, the representatives of the five governments exercising good offices organized as a Commission of Neutrals under the chairmanship of Francis White, Assistant Secretary of State of the United States, and began immediately to take an active part in the discussions. Their aid was soon needed, for the draft non-aggression pacts submitted by the two parties proved to be diametrically opposed. That of Bolivia, submitted early in December,<sup>11</sup> was based on maintenance of the positions held by each party in the Chaco; that of Paraguay, advanced more than a month later,<sup>12</sup> required the abandonment of all forts and outposts established in contravention of the *status quo* agreed upon in 1907.

#### ATTEMPTS TO ENLIST COOPERATION OF ABC-PERU POWERS

After vainly trying to reconcile these two drafts, the Commission of Neutrals began to elaborate a proposal of its own but before this work was finished alarming reports of military preparations reached Washington

early in April 1932. At the same time concern over the slow progress of the Washington negotiations was expressed by the countries adjacent to Bolivia and Paraguay. Of these countries—Argentina, Brazil, Chile and Peru—Argentina particularly had been keenly interested in the Chaco dispute and had made repeated attempts before 1928 to bring the parties to a settlement. Yet it had declined an invitation to designate a representative on the commission created by the Pan-American Conference to settle the 1928 Chaco incidents. Brazil and Peru also failed to take advantage of a similar offer, and Chile's participation had been vetoed by Bolivia.<sup>13</sup> Again in October 1929, Argentina, Brazil and Chile had not accepted an invitation to join in the tender of good offices made to Bolivia and Paraguay by the five neutral governments which had been represented on the Commission of Inquiry.<sup>14</sup> Since 1929, however, the situation in the Chaco had become much more alarming. Now that hostilities threatened, Argentine economic interests in the Chaco appeared jeopardized and Argentina was faced with the probability that it might have to maintain a large patrol along the Chaco border to safeguard its neutrality. Moreover, a change of administration in Argentina had brought to the Foreign Office Dr. Saavedra Lamas, a statesman who wished Argentina to emerge from its relative isolation and play a leading rôle in South America.

The concern displayed by Argentina and Chile led the Commission of Neutrals to call the Washington representatives of these countries, as well as those of Brazil and Peru, into a joint conference on April 13, 1932. Although the Commission suggested informally that these countries participate directly in the task of mediation, Argentina—apparently desiring to retain complete freedom of action—did not accept this suggestion, while Peru and Brazil seemed content to leave the task of mediation entirely in the hands of the Commission.<sup>15</sup> All four countries, however, agreed to "cooperate" with the Commission.

#### NON-AGGRESSION PACT PROPOSED

The anticipated military clashes in the Chaco did not immediately materialize, and the Commission was able, early in May, to present its own draft of a non-aggression pact.<sup>16</sup> According to this pact, the parties

9. Efforts to settle the question have been further complicated by the instability of the governments in both countries. Each government has been unwilling to make concessions for fear of being overthrown in the ensuing wave of resentment at home.

10. Bolivia believed that the press, public opinion and even the State Department of the United States were prejudiced in favor of Paraguay. Cf. Finot, *Nuevos Aspectos de la Cuestión del Chaco*, cited, p. 111.

11. December 9, 1931.

12. January 18, 1932.

13. Bolivia was convinced that Chile had encouraged and supported the Paraguayan attacks in December 1928 because of hostility to Bolivia's claims to territory on the Pacific coast held by Chile. Cf. Finot, *Nuevos Aspectos de la Cuestión del Chaco*, cited, p. 25-29.

14. Cf. *New York Times*, October 15, 1929.

15. Chile was the only country ready to join the Commission, but conditioned its participation on that of the others. Cf. special Santiago dispatch, *La Prensa* (Buenos Aires), April 20, 1932.

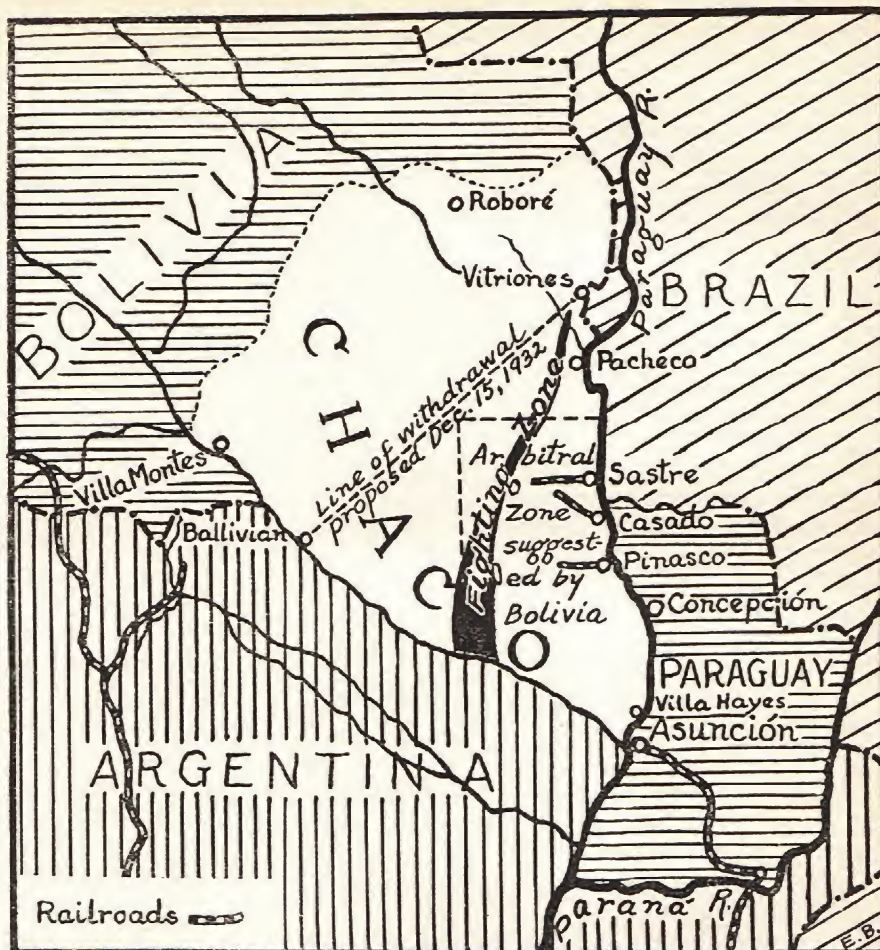
16. For a summary of this pact, cf. *New York Times*, May 31, 1932.



were to maintain a zone at least five kilometers wide between their advance positions, to allow *ad hoc* commissions to investigate any incidents that might occur, and to renew diplomatic relations.<sup>17</sup> Moreover, in order to prevent the pact from stabilizing the *status quo*, the two parties were to begin negotiations at once for a settlement of the whole question and to submit to arbitration if an agreement were not reached within six months.

While this draft was still under consideration, reports reached Washington on July 7 that a clash had taken place in the Chaco on June 15. The Paraguayan government, charging Bolivia with aggression, immediately announced its withdrawal from the conversations in Washington. Only after repeated pleas by the Neutrals and after it had recaptured the outpost allegedly taken by the Bolivians did Paraguay agree on July 20 to reverse its decision. Bolivia, however, then balked at a renewal of the negotiations. Declaring that it was tired of Paraguayan aggressions, it embarked on military operations and seized several forts "in retaliation." Both states then mobilized their armies.

Apparently feeling that the Commission of Neutrals had been ineffective, Argentina and Chile took steps to secure the participation of Brazil and Peru in joint action to forestall the imminent war. They advocated that the four countries whose territories enclose Bolivia and Paraguay join in declaring that a state of war existed in the Chaco and, as neutrals, deny both belligerents the right to import arms through their respective territories.<sup>18</sup> This plan was received with hostility in Bolivia, where Foreign Minister Gutiérrez immediately declared that its adoption would actually be a flagrant breach of neutrality, since the neutrals would not be able to interfere with Paraguay's right to bring in arms via the Paraná and Paraguay



### The Chaco Boreal

rivers, the free navigation of which was assured by treaty,<sup>19</sup> but would be able to cut Bolivia off completely from all supplies of war materials.<sup>20</sup> Although Bolivia claims the right to import arms through Chile by virtue of a treaty concluded in 1904, Chile has never admitted this right.<sup>21</sup>

The agreement finally reached by the four countries on August 6 contained no indication of the vigorous independent action that had been anticipated: its chief provision was a pledge that the signatories would remain

19. Cf. Article 17 of the Treaty of July 29, 1856 between Paraguay and the Argentine Confederation, *British and Foreign State Papers*, Vol. 46, p. 1308. The Paraná river, from its conjunction with the Paraguay river to the place where it flows into the ocean, lies exclusively within Argentine territory.

20. Cf. special dispatch from La Paz, *La Prensa* (Buenos Aires), August 4, 1932.

21. Article 6 of the Treaty of Peace and Amity between Bolivia and Chile of October 20, 1904 states: "The Republic of Chile recognizes in favor of Bolivia and in perpetuity the most ample and free right of commercial transit through its territory and the ports of the Pacific." (Bolivia, Ministerio de Relaciones Exteriores, *Tratados Vigentes 1825-1925*, Vol. 1, p. 280-1.)

Bolivia holds that this stipulation includes all trade, even in arms, while Chile contends that it is free to withhold permission for arms shipments. Cf. editorials in *El Mercurio* (Santiago, Chile), February 11, 12, 15, 1933. On the adoption of a Convention on Maritime Neutrality by the Sixth Pan-American Conference, held at Havana in 1928, Chile declined to accept paragraph 2, Article 22, of this convention, which provides that transit of arms and munitions shall not be prevented in a war between two American nations in which one of the belligerents is a mediterranean country and has no other means of obtaining supplies. Cf. *The International Conferences of American States 1889-1928*, edited by James Brown Scott, cited, p. 443.

17. Diplomatic relations had been broken off by Bolivia on July 3, 1931 as the result of Paraguay's refusal to disavow an allegedly insulting utterance by the Paraguayan chargé d'affaires in Washington.

18. According to international law, neutral countries are under no obligation to prevent the export or transport on behalf of the belligerents of arms, munitions of war, or any other war materials, but have the right to prohibit or restrict this export or transport provided they apply their measures impartially to both belligerents. Cf. "Convention respecting the Rights and Duties of Neutral Powers and Persons in case of War on Land," Articles 7 and 9, *The Hague Conventions and Declarations of 1899 and 1907*, edited by James Brown Scott (New York, Oxford University Press, 1918, third edition), p. 134.



united in offering their adhesion and collaboration to the Commission of Neutrals.<sup>22</sup> Brazil apparently was not ready to take any action that would be directed against Bolivia or would diverge from that taken by the Washington Commission. The agreement, however, contained no guarantee that such action would not be taken in the future.<sup>23</sup>

#### APPLICATION OF THE NON-RECOGNITION DOCTRINE

Meanwhile efforts were made in Washington to bring about united action. After conferring on July 29 and 30 with the diplomatic representatives of Argentina, Brazil, Chile and Peru, the Commission of Neutrals on the initiative of its chairman, Mr. Francis White, invited all American countries to unite in applying the non-recognition doctrine to the Chaco dispute. This invitation was promptly accepted. On August 3 the countries represented in the Pan American Union—exclusive of the disputants—issued a joint warning to Bolivia and Paraguay that they would “not recognize any territorial arrangement of this controversy which has not been obtained by peaceful means nor the validity of the territorial acquisitions which may be obtained through occupation or conquest of arms.”<sup>24</sup>

Reinforced by this declaration, the Washington commission tried throughout August to obtain the cessation of hostilities and a return to the *status quo* existing before the outbreak of fighting in June, but met with unyielding opposition from Bolivia which would have been required, under this proposal, to surrender several forts.<sup>25</sup> The Commission therefore found itself compelled to

22. In addition, the four countries undertook to appeal to the disputants to stop all military mobilization and avoid war, and to offer the two parties their services as agents for receiving and transmitting any proposals for settlement which one might wish to make to the other. For the text of the Agreement, cf. *La Prensa* (Buenos Aires), August 8, 1932.

23. In a declaration made on August 4, Dr. Saavedra Lamas said that the refusal of Argentina to act independently of the Commission of Neutrals did not mean that, in the event the Chaco conflict should be intensified, Argentina would not take action in co-operation with the other states bordering on Bolivia and Paraguay and, he predicted, such action would be attended with “complete success.” Similarly, in heralding the agreement signed by the four countries a few days later, he asserted that as a result the conflict would, if it should become necessary, be confined within a “ring of iron” to be “forged” out of decrees of neutrality. Presumably these decrees would include prohibition of further arms shipments across the territory of the neutrals. Cf. *La Prensa* (Buenos Aires), August 4, 1932.

24. For the text of this declaration, cf. State Department, *Press Releases*, August 3, 1932.

25. Bolivia had received the non-recognition doctrine with undisguised hostility. President Salamanca, in a message to Congress on August 6, charged that the Neutrals had exceeded the bounds of good offices by setting themselves up as “tutors and judges” (*La Prensa*, Buenos Aires, August 7, 1932). Since Bolivia is not a party to the Anti-War Pact, the contention that the Neutrals exceeded their powers in applying the non-recognition doctrine to Bolivia may not have been devoid of legal foundation. In its reply to the Neutrals (*La Prensa*, August 7, 1932), Bolivia also held the doctrine inapplicable “because Bolivia had not conquered territories nor does she pretend to conquer them,” i.e., presumably because it regarded itself merely as exercising jurisdiction in a territory which it believed *bona fide* to be its own.

abandon its proposal, and on August 29 suggested suspension of hostilities for sixty days to provide time for discussing a peaceful settlement of the territorial question.<sup>26</sup> This time Paraguay registered a protest. It declined to accept an armistice without adequate guarantees against a renewal of fighting and assurance that judicial proceedings for the settlement of the fundamental question would be definitely accepted by Bolivia. As “security” it demanded practically complete evacuation of the Chaco by both parties and demobilization of the two armies.<sup>27</sup> These conditions the Commission labored to satisfy, but Bolivia refused to consider any proposal for complete or partial withdrawal or for demobilization, on the ground that this would put Paraguay, which is closer to the Chaco, in a better strategic position to renew hostilities.<sup>28</sup> Nor would Bolivia definitely pledge arbitration, since it had always conditioned resort to arbitration on a previous agreement fixing the limits of the zone in litigation. Meanwhile, early in September, hostilities in the Chaco developed into intense warfare.

On September 22 the Commission of Neutrals, in another compromise proposal, appealed to both parties to “accept an unconditional termination of hostilities and immediate initiation of negotiations for settlement of their differences by means of an arbitration without reservations.” In such an event, the Commission would send a delegation to the Chaco to verify the termination of hostilities and, if this delegation should find that one of the parties had violated the armistice, the Commission would declare “that such country is the aggressor and will suggest that all governments of America withdraw their diplomatic and consular representatives from that country.”<sup>29</sup> The response was unfavorable; Bolivia rejected unconditional arbitration and Paraguay demanded further guarantees of security.<sup>30</sup> An impasse had again been reached.

#### ARGENTINA ADVOCATES LEAGUE INTERVENTION

To the opposition of the parties to the dispute was added that of Argentina. On October 18 the Argentine Ambassador presented a note to Francis White protesting that the adoption of coercive measures, such as the withdrawal of diplomatic representa-

26. State Department, *Press Releases*, August 29, 1932.

27. Cf. Paraguayan notes of September 1 (*La Prensa*, September 2, 1932), September 10 (State Department, *Press Releases*, September 14, 1932), and September 16 (*La Prensa*, September 17, 1932).

28. Cf. Bolivian notes of September 4 and 16, *La Prensa*, September 4 and 17.

29. State Department, *Press Releases*, September 23, 1932.

30. *Ibid.*, September 27, 1932; also *New York Times*, September 29, 1932.



tives, "can be based only on a Treaty accepted beforehand by the countries to which it is to apply, as is the case of the League of Nations Pact." Argentina, the note reminded the Commission of Neutrals, had adhered to the Declaration of August 3, on the understanding "that only moral pressure would be involved, supported by the juridical effects of the common neutrality of the limitrophe countries. . ."<sup>31</sup>

The Commission took more than two weeks to consider this grave challenge to its power. Replying finally on November 4, it pointed out that the measures contemplated in the proposal of September 22 would be consistent with international law because the execution of the whole proposal was made contingent on the prior consent of the parties. The Commission, moreover, did not feel "that action should be limited to treaties already signed and ratified and it is for that reason that they did not hesitate to sponsor the declaration of August 3, 1932." In conclusion the Commission remarked rather pointedly: "If there is one thing patent in all these negotiations, it is the patience, loyalty and personal disinterestedness with which the Neutral Commission has dealt with this complex and trying problem."<sup>32</sup> This note did not end the debate. In a rejoinder, made public on November 19,<sup>33</sup> the Argentine Foreign Minister definitely expressed the conviction that the Commission of Neutrals should allow the League of Nations to assume jurisdiction over the Chaco dispute.

"This being understood," the note declared, "this Chancellery believes that the League of Nations has in this emergency a field of action marked out by the will of the disputants themselves, who are signatories of the Covenant, and that, if the League is to act, within the purpose which inspires us all, we are likewise in agreement that it can and must develop its action without finding an obstacle in regional or continental doctrines which, for our part, we believe it necessary to affirm, have neither the adhesion of Argentina nor a sanction created by the unanimous will of the countries of the continent."<sup>34</sup>

The Commission of Neutrals returned no answer to this open intimation that the Monroe Doctrine was being used to thwart League intervention in the Chaco dispute. In the past the League had been chary of assuming jurisdiction over Latin American

questions, not only because Article XXI of the Covenant holds that the validity of "regional understandings like the Monroe Doctrine" remains unimpaired,<sup>35</sup> but also because the United States is not a member of the League. Although in the last few years there had been a noticeable rapprochement between the League and the United States, the latter had nevertheless not defined its position on League intervention in the Western Hemisphere. Consequently, when the Chaco question became acute in the fall of 1932, the League displayed considerable hesitancy. There was some feeling that the League would sacrifice its prestige in the American hemisphere if it did not intervene energetically for the maintenance of peace. This feeling was strengthened by the consideration that the League Covenant is the only treaty binding Bolivia and Paraguay to seek a peaceful settlement of their conflicts. Others in Geneva felt that direct intervention might offend the United States, or that the League was so preoccupied, especially with the Far Eastern question, that it would be best to leave the Chaco dispute in American hands. As a compromise, the Council on September 23, 1932 appointed a committee of three members to follow closely the development of the dispute.<sup>36</sup>

#### LEAGUE COOPERATES WITH WASHINGTON COMMISSION

This Council committee immediately initiated a policy of collaboration with the Washington Neutrals. In a telegram of September 30 to Francis White it expressed a desire to support the Commission, and requested the latter to keep the Council informed.<sup>37</sup> The Commission at once welcomed the "valuable support" of the Council and expressed readiness to entertain any suggestions from the committee.<sup>38</sup> When the League, however, suggested on October 1 that a commission of military officers be sent to the Chaco to arrange for the separation of troops and the cessation of fighting,<sup>39</sup> the response from Washington was such as to arouse serious doubts in Geneva that League cooperation was really desired. Not until October 13 did Francis White reply for the Neutrals, and

31. Text in *La Prensa* (Buenos Aires), November 18, 1932; cf. also *New York Times*, November 19, 1932.

32. *Ibid.*

33. *La Prensa* (Buenos Aires), November 19, 1932. The text of this note was not published or mentioned in the press of the United States.

34. This part of the note was communicated to the League of Nations by the Argentine Minister to Switzerland who was reported to have told the Secretary General that, since the Washington Commission had no effective juridical power, it was up to the League to obtain fulfilment of the obligations incumbent upon Bolivia and Paraguay as members of the League. Cf. special Geneva dispatch, *La Prensa* (Buenos Aires), November 23, 1932.

35. Cf. "The Monroe Doctrine and Latin America," Foreign Policy Association, *Information Service*, Vol. IV, No. 20, December 7, 1928. When hostilities first broke out in the Chaco in December 1928, the League had shown a keen interest in securing the restoration of peace and M. Briand, the president of the Council, had given definite indication that the Council would intervene directly if the parties did not accept the mediation proffered by the Pan American Conference. Cf. the account of M. Briand's interview with the chargés d'affaires of the United States and Argentina, League of Nations, *Official Journal*, February 1929, p. 266.

36. League of Nations, "Minutes of the 68th Session of the Council," *Official Journal*, November 1932, p. 1720-21.

37. State Department, *Press Releases*, October 14, 1932.

38. *Ibid.*

39. *Ibid.*



then the Council committee was informed rather curtly that a military commission had already been proposed by the Neutrals and accepted by both parties. This commission would proceed to the area of conflict "as soon as the situation seems appropriate therefor." The committee was further advised that "this question must be handled, as it has been in the past, with much patience," and that negotiations for the termination of hostilities and for "securing acceptance of bases for final arbitration" were proceeding satisfactorily.<sup>40</sup> The Neutrals were seeking to bring about an agreement defining the zone which would be submitted to arbitration, since only such an agreement would insure arbitration and the termination of hostilities, but the assurance that these negotiations were proceeding "satisfactorily" was hardly borne out by other reports revealing that an impasse had been reached because Bolivia insisted upon restricting too narrowly the zone in litigation.<sup>41</sup>

The League, nevertheless, adhered to its course of supporting the Washington Commission, but when the latter again reported on November 5 that negotiations were proceeding "normally,"<sup>42</sup> the apparent inconsistency of this assurance with the facts forcibly struck the League Committee. The Neutrals had secured the renewal of the discussions on the basis of another proposal made on October 12,<sup>43</sup> but these negotiations were making no noticeable progress, and in the meantime the fighting in the Chaco was becoming more and more severe. The Council committee therefore cabled Washington on November 9 that it could not "but be seriously concerned at the conditions of warlike action in the Chaco, in spite of all efforts to the contrary. . ."<sup>44</sup> Yet the Council continued to avoid independent action at its sessions on November 25 and December 6.<sup>45</sup>

After the failure of repeated attempts to obtain agreement through negotiation, the Commission of Neutrals, on December 15, made public a comprehensive peace proposal designed to compromise the divergent views of the parties on security and arbitration. In order to eliminate any possible renewal of hostilities after their suspension, Paraguay-

an troops were to withdraw to the Paraguay river and Bolivian forces to a line running from Fort Ballivian on the Pilcomayo river to Fort Vitrones in the northeastern corner of the Chaco. In requiring Bolivia, by this stipulation, to withdraw only half as far as Paraguay, the Commission evidently accepted the Bolivian contention that evacuation of the Chaco by both parties would place Paraguay at a relative advantage because of its proximity to the disputed area. In compensation, Paraguay was to be allowed to police with 100 men about three-fourths of the evacuated territory, while Bolivia was to police the remainder with an equal number of men. The armies of both countries were to be demobilized, and representatives of the Neutrals were to verify on the spot the execution of these measures. The second part of the proposal envisaged definitive settlement of the territorial question by arbitration. Differences concerning the delimitation of the zone in litigation were to be settled by neutral geographical experts and, if no agreement were reached regarding an arbitral tribunal, the case was to be submitted to the Permanent Court of International Justice at The Hague.<sup>46</sup>

#### PARAGUAY WITHDRAWS FROM WASHINGTON NEGOTIATIONS

The Commission of Neutrals appealed to the League and the other American nations to support this proposal. The League Council promptly did so at its meeting on December 17,<sup>47</sup> and three days later the State Department announced that 19 American republics had also urged the parties to accept the proposal. Paraguay, however, immediately rejected it, terming it "unsatisfactory and unjust," and recalled its representative before the Commission of Neutrals.<sup>48</sup> Despite the pleas of the Commission, Paraguay declined to consider its decision, and on December 31, 1932 its delegate departed for home.

The Commission of Neutrals, however, did not cease their activity, but proceeded to cable the governments of Argentina, Brazil, Chile and Peru for suggestions to bring about the termination of war in the Chaco.<sup>49</sup> Of the four replies, only that of Chile contained a proposal.<sup>50</sup> The Chilean government

40. *Ibid.*

41. Cf. United Press dispatch from Washington, *La Prensa* (Buenos Aires), October 8, 1932.

42. League of Nations, "Minutes of the 69th Session of the Council," *Official Journal*, December 1932, p. 1952.

43. This proposal included: (1) separation of troops in the Chaco; (2) demobilization of reserves and reduction of the regular armies; (3) dispatch of a neutral military commission to verify compliance with the provisions; and (4) an undertaking to settle the controversy only by arbitration and to open negotiations for such an arbitral settlement within a reasonable time after signing this agreement. Cf. *New York Times*, October 27, 1932.

44. League of Nations, "Minutes of the 69th Session of the Council," *Official Journal*, December 1932, p. 1952.

45. *Ibid.*, p. 1952-53, 1967-69.

46. For the full text of this proposal, cf. League of Nations, *Official Journal*, December 1932, p. 1997-99.

47. *Ibid.*, p. 1986-87.

48. *New York Herald Tribune*, December 18, 1932. After Paraguay had refused to consider the proposal, Bolivia confined its reply to an acceptance "in principle" of the main points of the proposal and termed as "useless" the submission of observations on its various provisions. Cf. *New York Times*, December 20, 1932.

49. *New York Times*, January 1, 1933.

50. According to a special dispatch from Santiago in *La Prensa* (Buenos Aires), January 13, 1932, the Chilean proposal contemplated (1) cessation of hostilities, (2) immediate negotiation of a permanent armistice with guarantees against a renewal of hostilities, and (3) study of the points in dispute by



undertook to sound out the parties on this proposal, but found that Argentina was also making "explorations" in La Paz and Asunción, with a view to mediation. Since a serious possibility of working at cross-purposes developed, the Chilean Minister for Foreign Affairs invited his Argentine colleague to a conference in order to unify their peace proposals and, incidentally, to discuss other questions outstanding between the two countries. This conference took place at Mendoza, in Argentina, on February 1 and 2. Here they agreed, among other things, on a peace formula with which they would jointly, together with Brazil and Peru if possible, approach the disputants. They also undertook to make the agreement of August 6 permanent, and to broaden it to include all questions bearing on the maintenance of peace in South America.<sup>51</sup>

#### THE MENDOZA FORMULA

As a result of the Mendoza conference, the four countries adjoining Bolivia and Paraguay took up the task of mediation. In Washington the Commission of Neutrals was apparently disposed to let these countries try their hand at settling the dispute. Paraguay welcomed the efforts of Argentina and Chile, which it had always regarded as sympathetic to its cause, but Bolivia suspected the motives of the new mediators. The fact that Argentina has close economic ties with Paraguay, that many Argentinians serve in the Paraguayan army, and that the head of the Argentine military mission—which had left Paraguay in September 1932—had returned to Asunción as Argentine military attaché, had created great hostility toward Argentina in Bolivia. Nor did the Bolivian government trust the impartiality of Chile, which had always been in conflict with Bolivia's claim to territory on the Pacific coast and had shown a disposition to challenge Bolivia's alleged right to import arms through Chilean territory.<sup>52</sup>

After the approval of Brazil and Peru had been obtained, the peace formula<sup>53</sup> decided

geographical experts in order to prepare the way for final settlement by arbitration. A United Press dispatch from Washington (*ibid.*) reported from a reliable source that the Argentine reply to the Neutrals did not contain any suggestion or indicate any definite steps that Argentina was prepared to take.

51. For the text of the act signed by the two Ministers on February 2, 1933, cf. *La Prensa* (Buenos Aires), February 3, 1933. The Argentine Foreign Minister, Dr. Saavedra Lamas, declared in a press interview that one of the most important results of the conference would be the creation of a group composed of Argentina, Brazil, Chile and Peru as "a new organ of Pan Americanism" to deal with any disturbances of the peace in South America. Cf. *New York Times*, February 4, 1933.

52. According to a Santiago dispatch in the *New York Times*, February 27, 1933, Chile immediately after the Mendoza conference held up arms shipments to Bolivia and, although releasing them subsequently on Bolivia's protest, maintained the view that it had the right to do this. Later, tension again developed when Chile held up another shipment of arms.

53. The text is contained in *La Informacion* (New York), March 30, 1933. The Commission of Neutrals was not apprised of the text nor asked to support it. It was the intention of Argentina and Chile to ask the Commission to join only in the "formal" presentation of the proposal, after the disputants had already accepted the bases of the formula.

upon at Mendoza was submitted informally to Bolivia and Paraguay on February 25. It followed substantially the proposal made by the Commission of Neutrals on December 15, but with certain important modifications. Bolivia was required to withdraw the same distance as Paraguay,<sup>54</sup> and differences arising during the framing of the arbitral agreement, particularly about the delimitation of the zone in litigation, were to be submitted to the Permanent Court of International Justice for an advisory opinion.<sup>55</sup> Both disputants accepted this formula "in principle," but actually the conditions they laid down in their replies made agreement impossible.<sup>56</sup> Paraguay insisted particularly on the withdrawal of Bolivian troops to an even greater distance, while Bolivia demanded that each country be allowed to maintain its positions in the Chaco. In addition, the Bolivian government insisted on fixing limits to the zone in litigation which were unacceptable to Paraguay,<sup>57</sup> and maintained that the arbitral tribunal should decide exclusively on the basis of legal titles existing in 1810.

After protracted negotiations, Paraguay was induced to withdraw its reservations but, even though Argentina and Chile, in notes presented on April 22, appealed to the Bolivian government not to incur responsibility for failure of the Mendoza formula, Bolivia declined to follow Paraguay's example. It resented these notes as attempts to "impose" a solution by "diplomatic pressure."<sup>58</sup>

#### THE LEAGUE PROPOSES A COMMITTEE OF INQUIRY

Meanwhile, the League of Nations was once more prevented from taking direct jurisdiction over the dispute. After Paraguay had withdrawn from the Washington negotiations, and when it appeared that no further action was being undertaken by the Commission of Neutrals, the League committee following the Chaco conflict ventured on January 27 to propose directly to the parties that a small commission be sent to the Chaco with powers similar to those of the recent Lytton Commission which had reported on

54. The eastern terminus of the Bolivian line of withdrawal was pushed toward the northwest from Fort Vitronces to Fort Roboré.

55. It is difficult to see how this could be done except through the medium of the Council of the League of Nations.

56. The text of the replies, given on February 27, 1933, may be found in *La Informacion* (New York), March 30, 1933; cf. also *New York Times*, April 9, 1933.

57. The limits fixed by Bolivia were: on the north parallel 21°, on the west the meridian 59°55' west of Greenwich; to the south the Pilcomayo river, and to the east the Paraguay river.

58. *New York Times*, April 28, 1933. Brazil also urged Bolivia to withdraw its reservations, but the tenor of Brazil's request was not revealed. On March 23 the Argentine group also obtained the support of the Commission of Neutrals for a sixty-day armistice proposal. (*La Prensa*, New York, March 24, 1933.) Bolivia, however, refused an armistice unless at the same time an agreement regarding the limits of the zone in litigation was reached and arbitration was thus made possible.



the Sino-Japanese dispute.<sup>59</sup> Both countries temporized, Paraguay calling the proposal "inadvisable" on the ground that Argentina and the other three South American countries were working on a plan to settle the dispute,<sup>60</sup> Bolivia deferring consideration because the efforts of the Commission of Neutrals were not yet "concluded."<sup>61</sup> They were thus able to play off one peace agency against the other.

The members of the League Council finally began to show considerable impatience. On the initiative of Great Britain<sup>62</sup> and France, the Council on March 2 unanimously, although informally, recommended the imposition of a world-wide arms embargo on both Bolivia and Paraguay. To furnish the legal basis for such action, the Council committee on March 7 officially brought the Chaco dispute before the Council under Article XI of the Covenant. No action, however, was possible without the cooperation of the United States, which was not forthcoming because Congress had not conferred on

the President the authorization to proclaim an arms embargo.

Two months later the way was finally opened for League action. After declining to withdraw its reservations to the Mendoza formula, Bolivia on May 5 requested the South American countries and the Commission of Neutrals to renew their efforts, suggesting that they induce Paraguay to define the extent of its territorial claims in order to pave the way for an agreement regarding the zone to be submitted to arbitration. Argentina and Chile, however, served notice that their mediation has ceased, since Bolivia had previously cast doubt on their good faith. When the Commission of Neutrals sought on May 9 to act on Bolivia's suggestion, the representatives of Argentina and Chile did not respond to an invitation to confer with the Commission concerning the possibility of joint action.<sup>62a</sup> The impression then gained ground in Washington that only the League could take action in the dispute. This belief was strengthened when on May 10 Paraguay formally declared war on Bolivia.<sup>63</sup>

### THE LETICIA DISPUTE

Quite different has been the functioning of the peace machinery in the dispute between Colombia and Peru. This conflict was less complicated in origin than that involving the Chaco. The Salomón-Lozano Treaty, signed in 1922 and executed in 1930, had "finally and irrevocably" settled a long-standing boundary dispute between Colombia and Peru.<sup>63a</sup> By virtue of this treaty, Colombia had come into possession of a narrow corridor of almost impenetrable and undeveloped jungle land extending from the Putumayo to the Amazon river and comprising, as its largest settlement, Leticia—a hamlet of scarcely 500 inhabitants, situated on the Upper Amazon. Two years after the execution of this treaty, on the night of September 1, 1932, a band of Peruvians from the Department of Loreto, a district remote from Peru

proper, forcibly seized Leticia, ousted the Colombian authorities, and hoisted the Peruvian flag. With the aid of the military authorities of eastern Peru, the occupation subsequently was extended to include the whole Leticia corridor.

At first the Sanchez-Cerro government in Peru disavowed the act, attributing it to Communist inspiration; but as popular support of the coup increased in eastern Peru, the government, already unpopular at home, characterized it as "a spontaneous manifestation of national aspirations" and appealed to Colombia not to repress it by force. While recognizing the 1922 treaty as valid, Peru contended that geographic continuity, natural commercial interests, and ties of kindred nationality existing between the people in the territory ceded to Colombia and those of the Peruvian East were such as to require revision of the boundary. Modification was all the more necessary, it held, because the former Peruvian President, Augusto P. Leguía, had sacrificed Peru's interests in concluding the treaty and had been able to obtain the consent of the Peruvian Con-

59. The task of this commission was to be, in the words of the Council Committee, "to study the situation in consultation with the two Governments, and, so far as possible, with the representatives on the spot of the Powers which are collaborating in trying to find a solution of the dispute; to report to the Council any suggestions which it may be able to put forward for the settlement of the dispute; and, should hostilities unhappily be still continuing when the commission arrives on the spot, to report to the Council whether it can arrange or assist in arranging for their cessation." Cf. League of Nations, "Minutes of the 70th Session of the Council," *Official Journal*, February 1933, p. 254.

The commission was to be composed of three members—citizens of Argentina, the United States, and some European country. The United States and Argentina were sounded out on this proposal. (*New York Times*, January 29, 1933; also *La Prensa*, Buenos Aires, January 31, 1933.) According to reports (United Press dispatch from Washington, *La Prensa*, Buenos Aires, February 4, 1933), the United States Department of State unofficially advised the League that the solution of the Chaco conflict could be better entrusted to the Washington Neutrals and the countries neighboring on Bolivia and Paraguay. The League Committee, reporting to the Council on February 3, 1933, declared merely that it understood the Commission of Neutrals to concur in the view of the disputants that League action should be held in suspense until the issue of further efforts then being made by American countries should be known.

60. Cable of January 28, 1933. League of Nations, *Official Journal*, February 1933, p. 378.

61. Reply of February 1, 1933. *Ibid.*, p. 379.

62. Cf. letter and memorandum of February 15, 1933 from the British representative on the Council. League of Nations, Doc. C.154.M.76.1933.VII.

62a. *New York Times*, May 10, 1933. The Chilean chargé d'affaires had instructions not to attend, while the Argentine Ambassador declared that he had no instructions.

63. Paraguay declared war in the hope that Argentina, Brazil, Chile and Peru would proclaim their "neutrality" and prohibit the shipment of war materials across their territories. Cf. p. 61.

63a. League of Nations, *Treaty Series*, Vol. LXXIV, p. 10, 15.



gress only by using dictatorial methods and by keeping its terms secret from the public.<sup>64</sup>

When Colombia insisted on re-establishing its authority in Leticia, the Peruvian government on October 3 appealed to the Permanent Diplomatic Committee at Washington, set up by the Gondra Treaty, to aid in the constitution of a commission to inquire into the whole matter with a view to revision of the boundary. At the same time it declared itself willing to give Colombia territorial compensation elsewhere in return for retrocession of the Leticia corridor.

Colombia, although bound by the treaty, held that a purely domestic question such as the exercise of police power by a state within the recognized limits of its territory was exempt from investigation and conciliation by an international agency. It cited as applicable the provision in the Gondra Treaty exempting from investigation questions affecting constitutional provisions and questions already settled by other treaties.<sup>65</sup> Colombia, however, notified Peru that it was willing to discuss any Peruvian grievances concerning the boundary treaty, but only after restoration of its authority in the Leticia area—a condition which Peru rejected.

#### BRAZIL MEDIATES

Under these circumstances, both sides prepared for a test of force. Colombia equipped a small flotilla and sent it up the Amazon river through Brazil to put down the "rebellion," and Peru prepared to resist this expedition. Early in January, Brazil, alarmed at the possibility of a conflict on its very borders,<sup>66</sup> intervened with an offer of mediation. It suggested that Peru persuade the occupants of the Leticia corridor to entrust this territory temporarily to Brazil, which would then turn it over to Colombia, the legitimate sovereign. The latter would in return agree to discuss with Peru, in Rio de Janeiro, the problem of readjusting the boundary. Colombia accepted this proposal at once, but Peru insisted that Brazil should hold the territory throughout the proposed conference in Rio de Janeiro and that, should the conference fail, the territory should be turned over not to the Colombian authorities, but to the Peruvians who had seized it.<sup>67</sup> Peru thus sought a guarantee that the boundary would be definitely revised; but Colombia would not consent to these conditions and Brazil was unwilling to hold territory indefinitely or even for a prolonged period.

64. Cf. Jacinto Lopez, *Los Tratados de Límites y la Paz internacional Americana*, 1932; also, Peruvian note of January 24, 1933 to the League of Nations, Doc. C.58.M.23.1933.VII.

65. The Inter-American Conciliation Treaty of 1929 which had eliminated this reservation was not binding on Colombia because the latter had not yet deposited its ratification.

66. Leticia is only two miles from Brazilian territory.

67. Cf. League of Nations, Docs. C.71.M.26.1933.VII. and C.89.M.33.1933.VII. Peru suggested, also, that in case no agreement were reached, the matter should be referred to arbitration.

#### THE LEAGUE AND THE U. S. SUPPORT COLOMBIA

Such was the situation when, on January 23, Colombia appealed to the United States and other signatories of the Anti-War Pact to intercede with Peru,<sup>68</sup> while Peru directed a similar appeal to the League of Nations.<sup>69</sup> A conflict of jurisdiction threatened, but the United States and the League rallied behind Colombia. In a note addressed to Peru on January 25, Secretary of State Stimson frankly expressed the opinion that Peru would violate both articles of the Anti-War Pact by giving armed support to the illegal occupation of Leticia, and urged acceptance of the Brazilian formula for settlement of the dispute.<sup>70</sup> On the next day the League Council sent a sharp telegram reminding the Peruvian government that it was "the duty of Peru as a member of the League to refrain from any intervention by force on Colombian territory and to ensure that all necessary instructions be given to the Peruvian commanders concerned to the effect that the military forces of Peru should take no action beyond the defense of Peruvian territory and not to hinder the Colombian authorities from the exercise of full sovereignty and jurisdiction in territory recognized by treaty to belong to Colombia."<sup>71</sup> In Washington, Secretary Stimson immediately indicated approval of this telegram.<sup>72</sup>

#### COLOMBIA INVOKES ARTICLE XV

Nevertheless, Peru showed no disposition to withdraw its support from the Peruvian occupants of the Leticia area or to accept the Brazilian peace proposal.<sup>73</sup> Following the

68. *New York Times*, January 25, 1933.

69. League of Nations, Doc. C.52.M.20.1933.VII.

70. Department of State, *Press Releases*, January 25, 1933.

71. League of Nations, "Minutes of the 70th Session of the Council," January 26, 1933. The Council at the same time requested Colombia to "take the strictest precautions not only to avoid violation of Peruvian territory but to make clear to the Peruvian Government that it is not the intention of the Colombian Government to commit any such violation."

72. Cf. *New York Times*, January 26, 1933.

73. In replying to Secretary Stimson's note on January 27 the Peruvian government declared that, pending negotiations to revise the 1922 treaty, "there is neither reason nor right in using such violent means as are represented by the Colombian military expedition to subdue the occupants of Leticia, who are defending the rights of mankind" and that "it cannot view with indifference the aggression against the Peruvians at Leticia." *New York Times*, January 29, 1933.

Peru's reply on February 2 to the Council's telegram accused Colombia of excessive military preparations, seizing Peruvian merchant ships and mistreating Peruvians living in Colombia, and declared that "in view of these facts it cannot be an obligation upon Peru not to interfere with the attack on Leticia where there are Peruvians who, voicing the sentiments of the whole Department of Loreto, have gone there to protest against the iniquity which separated them from their country of origin regardless of the will of the inhabitants of the territory that was being dismembered and of their rights as a political minority and when this group of patriots merely asks for a rectification of the frontier established by the treaty with Colombia on a basis of equitable compensation." (Cf. League of Nations, Doc. C.104.M.39.1933.VII.) In reply, the League Council telegraphed Peru on February 3 that it could not "admit the arguments" with which Peru had answered the Council's recent admonitions. League of Nations, "Minutes of the 70th Session of the Council," February 3, 1933.



failure of Brazil's mediation, the Colombian expedition proceeded to the Leticia area. The first clash with Peruvian forces took place on February 14. Three days later, Colombia formally appealed to the League Council under Article XV of the Covenant.<sup>74</sup> This was the first time that any Latin-American state had brought a dispute before the League under a specific article of the Covenant. Article XV requires the Council, if it fails to bring about a settlement through conciliation, to adopt a report setting forth its recommendations. Then, if one party goes to war with another accepting the report, the sanctions of Article XVI become applicable.

On February 21 the Council entrusted the task of conciliation to the same committee that had been following the Chaco dispute.<sup>75</sup> This committee immediately set to work with the determination not to waste too much time on conciliation if this should prove to have little chance of success. On February 25 it submitted a comprehensive proposal to both parties. This included:

(1) Evacuation of the Leticia area by Peruvian troops and assumption of control by a League Commission;

(2) Occupation of the territory by Colombian troops functioning as international police under the sole control of the League Commission, which would have power to attach to these forces any other personnel it might think necessary;

(3) Provision for negotiations to be carried out with all possible expedition on all problems outstanding, with a view to reaching a just, lasting and satisfactory settlement; the Council to be ready, at the request of either party, to offer its good offices in case of disagreement either as to method of negotiation or as to any point of substance that might arise.<sup>76</sup>

The United States, requested by the committee to support this proposal, immediately complied, thus putting at rest any remaining fears that it would invoke the Monroe Doctrine to oppose League intervention to settle disputes in the American hemisphere.<sup>77</sup>

#### THE VERDICT AGAINST PERU

Colombia accepted the proposal of the committee unreservedly but Peru, after considerable delay, hedged its acceptance with such qualifications<sup>78</sup> that the committee concluded

that the time had come to end conciliation and draft a report. On March 18 this report was submitted to the Council. Its recommendations followed substantially the proposal made on February 25 and were prefaced by a declaration that "the presence of Peruvian forces in Colombian territory is incompatible with the principles of international law, with those of the Covenant of the League of Nations and of the Pact of Paris. . ." In addition, the report recalled the principle, first invoked in the Sino-Japanese dispute, that League members should not recognize any situation, treaty or agreement brought about by means contrary to the Covenant or the Anti-War Pact.<sup>79</sup>

Disregarding the protest of the Peruvian delegate against this "summary judgment," the Council adopted the report and, following the precedent set in the Sino-Japanese dispute, appointed a committee of thirteen members to advise it in the discharge of its further functions and to aid in concerting action on the basis of the report. The United States and Brazil, invited to collaborate with this committee, promptly accepted, although reserving the right to independent action.<sup>80</sup> On March 22 this committee met to consider the possibility of enforcing its report through the application of an arms embargo against Peru but, as in the Chaco dispute, the adoption of this measure, so urgently needed to prevent Peru from further arming itself, was impossible because the President of the United States did not possess the authority to impose an arms embargo.

Deprived of means to enforce the Council's report, the Advisory Committee apparently came to the conclusion that the report might have been adopted before all the possibilities of conciliation had been exhausted. On April 6 it instructed its president, Mr. Sean Lester of Ireland, to re-open negotiations with Peru and Colombia.<sup>81</sup> Up to the present no agreement on a formula for settling the dispute has been reached. Meanwhile, the assassination on April 30 of the Peruvian President, Sanchez-Cerro, has revived hope that a solution may be found in direct negotiations.

mission, and wanted a definite guarantee that the subsequent negotiations for revision of the boundary treaty would not break down before reaching a settlement. Cf. note, dated March 6, from the Peruvian delegate to the chairman of the Council Committee, League of Nations, Doc. C.174.M.86.1933.VII.

79. League of Nations, "Minutes of the 71st (extraord.) Session of the Council," March 18, 1933.

80. *New York Times*, March 21-23, 1933. The United States designated Hugh R. Wilson, American Minister to Switzerland, to participate in the deliberations of the committee.

81. Special Geneva dispatches, *La Prensa* (Buenos Aires), April 7, 1933. On May 7 the Advisory Committee also requested neutral countries to deny supplies to a cruiser and two submarines which the Peruvian government had dispatched to the scene of hostilities via the Panama Canal and the Amazon river. However, the press reported that the flotilla received fuel and provisions both at Willemstad, Dutch West Indies, and at Port of Spain, Trinidad—a British possession.

74. League of Nations, Doc. C.139.M.63.1933.VII.

75. League of Nations, "Minutes of the 71st (extraord.) Session of the Council," February 21, 1933.

76. League of Nations, "Minutes of the 71st (extraordinary) Session of the Council," Report of the Committee to the Council, March 1, 1933.

77. In a note of February 27, 1933, Secretary of State Stimson urged both governments to accept the proposition as "a most straightforward, helpful one, which, if accepted by both parties, should make possible a peaceful solution of the present controversy honorable to both governments." Cf. Department of State, *Press Releases*, March 2, 1933.

78. Peru objected to the introduction of Colombian troops into the Leticia area even under the control of the League Com-